

Dakai Liu et al.

Serial No.: 08/822,963

Filed: March 21, 1997

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The Restriction Requirement Under 35 U.S.C. §121

In the Office Action (pages 2-3), the Examiner required restriction to one of the following groups:

- I. Claims 1-16, and 61-66, drawn to a viral vector comprising one or more native promoter/enhancer regions in which at least one sequence has been modified, one or more non-native promoter/enhancers or a non-native promoter's gene or gene segment, and a native viral vector terminator or a processing signal of a segment thereof and method of producing said vector, classifiable in class 435, subclass 320.1;
- II. Claims 17-35, drawn to a viral vector comprising a virus or viral portion having on a surface or an envelope thereof at least two components, one for adsorption to a target cell classifiable in class 435, subclass 320.1;
- III. Claims 36-42, drawn to a vector comprising a sequence coding for a segment where said segment is capable of integrating into a target cells genome and further said vector is capable of introducing a first nucleic acid in said target cell, classifiable in class 435, subclass 320.1;
- IV. Claims 43-59, drawn to a vector which, when introduced into a packaging cell line, produce a second vector and cell line therefore, classifiable in class 435, subclass 320.1;
- V. Claim 67, drawn to a packaging cell line for propagating a viral vector independent of a helper virus, classifiable in class 435, subclass 320.1;

Applicants hereby elect, with traverse, Group I which is drawn to claims 1-16 and 61-66. Applicants respectfully request that the restriction requirement under 35 U.S.C. §121 be reconsidered and withdrawn in view of the remarks set forth below.

Applicants respectfully submit that the claims represented by Groups I, II, III, IV, and V, as set forth hereinabove, form a single general inventive concept which should properly be examined in the same application. The subject matter in each of Groups I, II, III, IV, and V relates to vectors including viral vectors and their use in producing gene expression systems and for producing packaging cell lines for propagation of such vectors or viral vectors.

Applicants contend that a diligent search of the art of any one of these groups, as

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classified by the Examiner, would inevitably necessitate a review of the art - at least in part - for the other corresponding groups. In fact, as a cursory review of the restriction requirement shows, the subject matter of each of Groups I, II, III, IV, and V clearly overlaps with one another. For example, the subject matter of Groups I, II, III, IV, and V is related by virtue of its classification in the same class (Class 435). Even more significantly, the subject matter of each of Groups I, II, III, and IV is also related by its classification in the very same subclass (subclass 320.1).

It is submitted, moreover, that the restriction requirement would only serve to duplicate the search efforts of the Patent Office and other examiners in future filings necessitated by the requirement, in the event that it is maintained. The instant Assignee would also be burdened unfairly by additional cost for such filings, the subject matter of all of which should be properly examined in the present application.

Applicants sincerely believe that if the Examiner carefully considers the foregoing arguments, he too will reasonably conclude that no burden in terms of search efforts will be placed upon the Patent Office or himself, if the claims of Groups II, III, IV, and V are examined in this application, together with the claims of Group I. Applicants earnestly urge, therefore, that the Examiner withdraw the restriction requirement in light of the foregoing remarks.

Applicants respectfully request, therefore, reconsideration and withdrawal of the restriction requirement. Full examination on the merits of claims 1-67 is respectfully urged.

In the alternate, Applicants respectfully request modification of the restriction requirement by combining present Groups I, II, III, and IV, the subject matter of each being classified in the same subclass (320.1). As so modified, the restriction would reasonably be drawn to the following two groups:

Group I (formerly Groups I, II, III, and IV) - drawn to Claims 1-66;

and

Group II (formerly Group V) - drawn to Claim 67.

In the further alternative, Applicants respectfully request modification of the restriction requirement into three new groups by combining present Groups I and II, also combining Groups

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III and IV, and leaving Group V alone. As modified by this second alternative, the restriction requirement would be reasonably directed to the following three groups:

Group I (formerly Groups I and II) - drawn to Claims 1-35 and 61-66;

Group II (formerly Groups III and IV) - drawn to Claims 36-59;

and

Group III (formerly Group V) - drawn to Claim 67.

Accordingly, Applicants request that the Examiner withdraw the restriction requirement or modify it, as indicated above.

SUMMARY AND CONCLUSION

Claims 1-67 are presented for further prosecution, the restriction requirement notwithstanding. No claims have been amended, added, or canceled by this response.

The required filing fees for this response are hereby authorized to be charged to Deposit Account No. 05-1135, including the \$475.00 fee for a three month extension of time. If any other fee is deemed necessary in connection with the filing of this response, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 05-1135.

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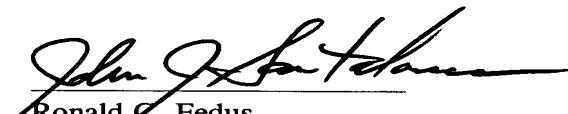
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If it would be helpful in expediting examination of all the claims in this application, the Examiner is respectfully requested to telephone the undersigned attorneys at (212) 583-0100 to discuss the subject application.

Respectfully submitted,



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